

**CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK: HOUSING PART**

**HOLD OVER
[Residential]**

**ST. MARGARET'S HOUSE HOUSING
DEVELOPMENT FUND CORPORATION,**

Petitioner [Landlord],

L&T Index No.:

102744/06

-against-

**JOSHUA HOPE
49 Fulton Street
Apartment 17E
New York, NY 10038**

VERIFIED PETITION

Respondent [Tenant],

JOHN DOE* and JANE DOE*,

Respondents [Undertenants].

***First and/or last name(s) of Undertenant(s)
is/are fictitious and unknown to Petitioner. The
person intended is whosoever has possessory
right to, or actually is in possession of, the
premises herein described.**

**THE PETITION OF ST. MARGARET'S HOUSE HOUSING DEVELOPMENT FUND
CORPORATION, OWNER AND LANDLORD OF THE PREMISES SHOWS THAT:**

- 1. Petitioner is a corporation, duly formed and organized pursuant to the Business Corporation Law of the State of New York, is authorized to do business within the state of New York, and maintains a principal place of business at 49 Fulton Street, New York, New York, 10038 which is situated in the City, County, and State of New York.**
- 2. The Petitioner has authorized institution and maintenance of this proceeding.**

3. Petitioner is the owner and landlord of the premises from which removal of the above-captioned Respondents is sought.

4. The premises from which removal of the Respondents is sought is described as follows: All rooms of Apartment 17E which is located in the building known as and by the street address of 49 Fulton Street, New York, New York, 10038 [hereinafter referred to as the "premises" or the "subject premises"] and which is situated within the territorial jurisdiction of the Civil Court of the City of New York, County of New York.

5. Respondent Joshua Hope (hereinafter, "Hope" or "Tenant"), is the tenant of record of the subject premises whose last written lease dated February 1, 2004 (the "Lease") was for a term of one year, one month commencing on February 1, 2004 and ending on February 28, 2005 and, continuing thereafter by the terms of paragraph "9" of the Lease, for successive terms of one month commencing on the first day of each month. Most recently, the Lease was extended for a term of one month commencing on November 1, 2006 and ending on November 30, 2006.

6. Upon information and belief, Respondents "John Doe" and "Jane Doe" may be undertenants of Tenant currently in possession of the premises.

7. Heretofore, the premises was subject to Section 202 of the Housing Act of 1959, as amended, and applicable HUD regulations under criteria for eligibility of tenants for admission to Section 8 assisted units, pursuant to a regulatory agreement between Petitioner and the Secretary of Housing and Urban Development ("HUD") wherein Petitioner agreed to limit occupancy of the premises to elderly or handicapped families and individuals, by reason of the fact that Petitioner had determined that Tenant

was eligible to pay less than the contract rent for the subject apartment and otherwise qualified for occupancy.

8. As set forth in a TERMINATION/CANCELLATION NOTICE dated October 30, 2006, a copy of which is annexed hereto as an Exhibit and made a part of this Petition as if the same was fully set forth at length herein, Hope has substantially violated his lease obligations by repeatedly and continually engaging in objectionable conduct. As specifically alleged against Hope in the TERMINATION/CANCELLATION NOTICE:

During 2005 and 2006, you have repeatedly and continually engaged in objectionable conduct, harassed and interfered with the rights of your neighbors and St. Margaret's House staff members by your aggressive and threatening actions, which include the following:

On August 6-8, 2005, you screamed at tenant Nancy Tsang in the building lobby and/or dining room, repeatedly called her a "dog" and followed her toward the elevator while continuing to loudly berate her;

On August 11, 2005, you disrupted a meeting of the Chinese Residents' Council and threatened to strike tenant Ann Ng;

On March 28, 2006, you screamed at and physically threatened lobby desk personnel over an alleged error in connection with a pharmacy delivery;

On April 28, 2006, you screamed at, and obstructed landlord's Executive Director's exit from the 17th floor, pushing your hand against his chest, when he advised you to remove furniture you had placed in the 17th floor hallway;

On August 3, 2006, you screamed at staff members in their offices about a dispute you were having with tenants of Apartments 6A and 14A and accused staff of recording your conversation through a radio on a staff member's desk, resulting in police being called to the scene;

On August 3, 2006, you threatened to break down the Occupancy office door, beating your aluminum cane against the door;

On August 4, 2006, you tried to grab, yelled at and sobbed before landlord's Executive Director in the building lobby, administrative offices and dining room, begging to be arrested by the police;

On August 9, 2006, you complained to front desk personnel that a man was in the lobby to murder you and insisted that the police be called although advised that the man in question was landlord's security guard;

On August 9, 2006, at 9:05 p.m. you approached Mr. And Mrs. Yi of 9 L as they entered the building, you screamed at them while raising your aluminum cane in a threatening manner that required the security guard to step between you and the Mr. And Mrs. Yi;

On August 10, 2006, you stood screaming in the building lobby and dining room;

On August 25, 2006, Ann Ng of Apt. 11G and Chen Mei of Apt. 6A complained to landlord that you had harassed them by ringing their door bells, knocking on their doors at different times of the day and night;

On August 31, 2006, Ann Ng again complained to landlord that you harassed her;

On September 28, 2006, you created a disturbance in the dining room, first by yelling at resident Wong Nait Hing of Apt. 13E because the U.S. Post Office requires you to pick up registered mail, and then by arguing loudly with resident Feng Kwei Yu of Apt. 12E, who sought to intervene. You continued to yell when building staff asked you and Mr. Feng to quiet down, disrupting dinner for all residents and guests present.

On September 29, 2006, you verbally assaulted staff member Paul Chin in the building lobby and knocked loudly on closed staff office doors while continuing to yell. You also berated and screamed at staff member Josephine Chung in the building lobby.

On October 8, 2006, you verbally assaulted Joseph B. Breed IV in the building lobby and generally disturbed the peace for an hour.

You also repeatedly ignored staff requests during 2005 and 2006 to stop moving your personal furniture and possessions into the hallway in front of your apartment door, where you sit, dine and read the newspaper. Members of St. Margaret's House staff have requested repeatedly that you stop this practice.

Moreover, you have continued the aforesaid objectionable conduct, after receiving notice from the landlord by letter dated October 10, 2006, and delivered to you on October 14, 2006, that henceforth such conduct would also be deemed grounds for termination of your tenancy. A copy of this letter with an affidavit of service is annexed hereto as an Exhibit. More specifically:

On October 21, 2006, resident Yong Chong of Apt. 9L complained that you were disturbing him and his wife.

On October 22, 2006, you created a disturbance in the lobby and dining room by following resident Robert Healy of Apt. 18N from the elevator to the dining room and

arguing with him there. Mr. Healy and his visitor later complained that on this occasion you pulled a chair up across the table and stared at him in an enraged manner in the dining room.

On October 25, 2006, you screamed at front desk staff member Paul Chin in the morning. Later, you created a disturbance in the building lobby throughout the evening, by screaming about a "theft," calling the desk staff names, and using menacing facial expressions. At one point it became necessary for the police to intervene. During this incident, you also accosted staff member Josephine Chung in the lobby as she entered the elevator and demanded her "ID." Resident Miriam Sannon of Apt. 8M reported that you also demanded her "ID" when she entered the building.

On October 28, 2006, you accosted Josephine Chung at the front lobby desk, asked for her "ID," blocked her path and waved the "St. Margaret's House" sign that you had removed from the front lobby desk in her face. When she took the sign from you and proceeded through the lobby, you grabbed her from behind. During this incident you made loud, threatening, accusatory and racist remarks to building security staff and stated in front of building staff that you would "shoot Mr. Breed." Later on the same day you again accosted Josephine Chung and her daughter in the lobby with a flash camera.

9. By virtue of the foregoing, and upon the grounds stated in §§247.3(a)(1), and 247.3(c) of Volume 24 of the Code of Federal Regulations, as well as paragraphs "9(b)(1)," "9(b)(2)," "9(d)," "9(e)," and "29" of the Lease and in paragraphs "14," "20," and "22" of the House Rules annexed thereto, Hope is in material noncompliance with the Lease based on one or more substantial violations of tenant's lease obligations and/or repeated minor violations of tenant's lease obligations and/or other good cause.

10. Section 247.4 of Volume 4 of the Code of Federal Regulations, as well as paragraphs "9(b)," "9(f)," and "9(g)" of the lease between the parties, authorizes the institution of summary eviction proceedings against a tenant who has been in material noncompliance with the lease as long as the owner serves upon the tenant a Termination Notice which, in the case of material noncompliance with the lease by the tenant, must be forwarded to the tenant at least (30) days prior to the termination of his or her lease term.

11. By virtue of the foregoing, the term for which the premises was rented to Tenant expired on November 30, 2006, and, at least thirty (30) days before the expiration of said term; to wit on the 31st day of October, 2006, all of the Respondents were served in the manner provided by law with a TERMINATION/CANCELLATION NOTICE (see Exhibit).

12. Said TERMINATION/CANCELLATION NOTICE also provided in pertinent part that the Petitioner elected to terminate the said tenancy and proceed to recover possession of the premises and that unless the Respondents removed from the premises on the day on which the term expired, the owner would commence summary proceedings under the Statute to remove the Respondents therefrom.

13. Continuing and pursuant to the aforesaid TERMINATION/CANCELLATION NOTICE, Respondents were directed to vacate the subject premises on or before **November 30, 2006**. However, they failed to heed this direction and Respondents continue in possession of the premises without the permission of the Petitioner and after the expiration date set forth in the TERMINATION/CANCELLATION NOTICE, as aforesaid.

14. Petitioner has accepted no rent from the Respondents allocable to any period commencing on or after the expiration date of their month-to-month tenancy; to wit, November 30, 2006.

15. The subject apartment building is a multiple dwelling, and pursuant to the Housing Maintenance Code Article 41, there is a currently effective registration statement on file with the Office of Code Enforcement in which the owner has designated the

managing agent shown below, a natural person over 21 years of age, to be in control of and responsible for the maintenance and operation of the dwelling as follows:

MULTIPLE DWELLING REGISTRATION NUMBER: 139995

**REGISTERED MANAGING AGENT'S NAME
& ADDRESS :**

**Joseph B. Breed IV
St. Margaret's House
49 Fulton Street
New York, NY 10038**

BUSINESS TELEPHONE NUMBER: (212) 766-8122

16. Except for the apartment being sought in the context of this proceeding, Petitioner lacks written information or notice of any other addresses where Respondents reside, are employed, or have a place of business.

17. Respondents, after the date set forth in the TERMINATION/CANCELLATION NOTICE, have failed and/or refused to vacate, quit and surrender possession of the subject premises, unlawfully withholding possession thereof from the Petitioner and without Petitioner's consent.

18. By reason of the foregoing, Petitioner demands herein a judgment against the within Respondents for the fair market value of the subject premises and for their use and occupancy of the same from December 1, 2006, until the date when possession of the premises is returned to Petitioner, at a monthly rate to be determined at either trial or inquest of the within proceeding.

19. By reason of the foregoing, Petitioner demands herein a judgment against the within respondents for the costs and expenses of this proceeding, in an amount to be determined at either a trial or inquest in the within proceeding.

WHEREFORE, Petitioner requests a final judgment as follows:

- [a] awarding possession of the premises to Petitioner;**
- [b] issuance of a warrant to remove Respondents from possession of the subject premises;**
- [c] judgment for the fair market value of Respondents' use and occupancy of the premises from December 1, 2006, to the date on which possession of the premises is returned to Petitioner;**
- [d] judgment for costs and disbursements incurred by Petitioner in connection with this proceeding; and**
- [e] for such other and further relief as this Court deems appropriate.**

**Dated: New York, New York
December 5, 2006**

Yours, etc.,

**ST. MARGARET'S HOUSE
HOUSING DEVELOPMENT
CORPORATION,
Petitioner [Landlord]**

**EILEEN O'TOOLE, ATTORNEY AT LAW
Attorney for Petitioner
805 Third Avenue, 9th floor
New York, New York 10022
(212) 838-1153**

ATTORNEY'S VERIFICATION

EILEEN O'TOOLE, an attorney duly admitted to practice law before the Courts of the State of New York, under the penalties of perjury, pursuant to the CPLR, hereby affirms as follows:

I am a principal of the law firm EILEEN O'TOOLE, ATTORNEY AT LAW, the attorney for the Petitioner, which is a person authorized by Section 721 of the RPAPL to maintain the within proceeding. I have read the allegations contained in the within Petition and, upon information and belief, the same are true. The source of my information and belief are oral statements, books and records furnished by Petitioner, as well as materials contained in my office files. The reason why this verification is made by myself, as opposed to the Petitioner, stems from the fact that it is made pursuant to Section 741 of the RPAPL which expressly permits Petitioner's attorneys to verify upon information and belief the allegations contained in a proceeding to recover real property.

**Dated: New York, New York
December 5, 2006**


EILEEN O'TOOLE

TERMINATION/CANCELLATION NOTICE

TO: JOSHUA HOPE AND ALL OTHER PERSONS OCCUPYING THE PREMISES INVOLVED.

PREMISES INVOLVED: All rooms of Apartment 17E (the "premises") which is located in the building known as and by the street address of 49 Fulton Street, New York, New York 10038.

DATE OF THIS NOTICE: October 30, 2006

PLEASE TAKE NOTICE that your tenancy in the premises involved is hereby terminated effective **on the 30th day of November, 2006**, upon the grounds stated in §§247.3(a)(1), 247.3(a)(4) and 247.3(c) of Volume 24 of the Code of Federal Regulations and in Paragraphs "9(b)(1)," "9(b)(2)," "9(d)," "9(e)," and "29" of your last written lease, dated February 1, 2004 (the "Lease"), and in Paragraphs "14," "20," and "22" of the House Rules annexed thereto, and for the reason that you are in material noncompliance with your lease based on one or more substantial violations of your lease obligations and/or repeated minor violations of your lease obligations and/or other good cause, based upon the following facts:

During 2005 and 2006, you have repeatedly and continually engaged in objectionable conduct, harassed and interfered with the rights of your neighbors and St. Margaret's House staff members by your aggressive and threatening actions, which include the following:

On August 6-8, 2005, you screamed at tenant Nancy Tsang in the building lobby and/or dining room, repeatedly called her a "dog" and followed her toward the elevator while continuing to loudly berate her;

On August 11, 2005, you disrupted a meeting of the Chinese Residents' Council and threatened to strike tenant Ann Ng;

On March 28, 2006, you screamed at and physically threatened lobby desk personnel over an alleged error in connection with a pharmacy delivery;

On April 28, 2006, you screamed at, and obstructed landlord's Executive Director's exit from the 17th floor, pushing your hand against his chest, when he advised you to remove furniture you had placed in the 17th floor hallway;

On August 3, 2006, you screamed at staff members in their offices about a dispute you were having with tenants of Apartments 6A and 14A and accused staff of recording your conversation through a radio on a staff member's desk, resulting in police being called to the scene;

On August 3, 2006, you threatened to break down the Occupancy office door, beating your aluminum cane against the door;

On August 4, 2006, you tried to grab, yelled at and sobbed before landlord's Executive Director in the building lobby, administrative offices and dining room, begging to be arrested by the police;

On August 9, 2006, you complained to front desk personnel that a man was in the lobby to murder you and insisted that the police be called although advised that the man in question was landlord's security guard;

On August 9, 2006, at 9:05 p.m. you approached Mr. And Mrs. Yi of 9 L as they entered the building, you screamed at them while raising your aluminum cane in a threatening manner that required the security guard to step between you and the Mr. And Mrs. Yi;

On August 10, 2006, you stood screaming in the building lobby and dining room;

On August 25, 2006, Ann Ng of Apt. 11G and Chen Mei of Apt. 6A complained to landlord that you had harassed them by ringing their door bells, knocking on their doors at different times of the day and night;

On August 31, 2006, Ann Ng again complained to landlord that you harassed her;

On September 28, 2006, you created a disturbance in the dining room, first by yelling at resident Wong Nui Hing of Apt. 13E because the U.S. Post Office requires you to pick up registered mail, and then by arguing loudly with resident Feng Kwei Yu of Apt. 12E, who sought to intervene. You continued to yell when building staff asked you and Mr. Feng to quiet down, disrupting dinner for all residents and guests present.

On September 29, 2006, you verbally assaulted staff member Paul Chin in the building lobby and knocked loudly on closed staff office doors while continuing to yell. You also berated and screamed at staff member Josephine Chung in the building lobby.

On October 8, 2006, you verbally assaulted Joseph B. Breed IV in the building lobby and generally disturbed the peace for an hour.

You also repeatedly ignored staff requests during 2005 and 2006 to stop moving your personal furniture and possessions into the hallway in front of your apartment door, where you sit, dine and read the newspaper. Members of St. Margaret's House staff have requested repeatedly that you stop this practice.

Moreover, you have continued the aforesaid objectionable conduct, after receiving notice from the landlord by letter dated October 10, 2006, and delivered to you on October 14, 2006, that henceforth such conduct would also be deemed grounds for

termination of your tenancy. A copy of this letter with an affidavit of service is annexed hereto as an Exhibit. More specifically:

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On October 28, 2006, you accosted Josephine Chung at the front lobby desk, asked for her "ID," blocked her path and waved the "St. Margaret's House" sign that you had removed from the front lobby desk in her face. When she took the sign from you and proceeded through the lobby, you grabbed her from behind. During this incident you made loud, threatening, accusatory and racist remarks to building security staff and stated in front of building staff that you would "shoot Mr. Breed." Later on the same day you again accosted Josephine Chung and her daughter in the lobby with a flash camera.

PLEASE TAKE FURTHER NOTICE that this TERMINATION/CANCELLATION NOTICE is also being served upon you in accordance with §247.4 of Volume 24 of the Code of Federal Regulations, as well as pursuant to Paragraphs "9(b)(2)," "9(f)," and "9(g)" of your last written lease, dated February 1, 2004, and other applicable provisions of law.

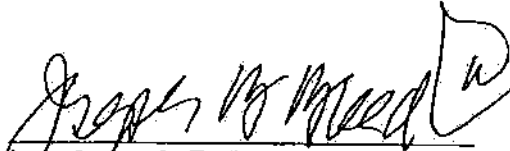
PLEASE TAKE FURTHER NOTICE that you are hereby required to quit, vacate and surrender possession of the premises involved to the OWNER on or before the 30th day of November, 2006, that being more than thirty (30) days from the date of service of this Notice upon you, as well as the day on which your term expires. Further and unless you voluntarily vacate the premises involved, as aforesaid, the OWNER will commence summary proceedings under Part 247 of Volume 24 of the Code of Federal Regulations to remove you from said premises for the holding over after the expiration of your term in the Civil Court of the City of New York, County of New York, at which time you may present a defense, and will demand in said proceeding the fair market value of your use and occupancy of the premises during such holding over.

PLEASE TAKE FURTHER NOTICE, that any response to this NOTICE must be sent and directed to the below-named attorneys for the LANDLORD/OWNER.

Eileen O'Toole, Attorney at Law
805 Third Avenue, 9th Floor
York, NY 10022
(212) 838-1153


by: Eileen O'Toole, Esq.

St. Margaret's House
Housing Development Fund New
Corporation [Landlord/Owner]


by: Joseph B. Breed IV
Executive Director



49 Fulton Street, New York, NY 10038-2055

(212) 766-8122 Fax: (212) 571-1634

October 10, 2006

Joshua Hope
49 Fulton Street
Apartment 17E
New York, NY 10038

Re: Objectionable conduct

Dear Mr. Hope:

I am writing to warn you that your objectionable conduct at St. Margaret's House violates your lease. In addition, if this conduct continues, it will henceforth be considered "other good cause" for termination of your tenancy. As explained in lease paragraphs "9(b)(1)," "9(d)" and "9(e)", your tenancy can be terminated for "material noncompliance" with your lease agreement. Further, as set forth in Paragraph "29" of your lease, you have agreed to abide by the House Rules of St. Margaret's House. Your violation of House Rule Nos. 14 ("Harassment"), 20 ("Objectionable Conduct") and 22(a) ("Peaceful Enjoyment") constitutes material noncompliance with your lease.

Instances of your objectionable conduct during 2005 and 2006 include the following:

On August 6-8, 2005, you screamed at tenant Nancy Tsang in the building lobby and/or dining room, repeatedly called her a "dog" and followed her toward the elevator while continuing to loudly berate her;

On August 11, 2005, you disrupted a meeting of the Chinese Residents' Council and threatened to strike tenant Ann Ng;

On March 28, 2006, you screamed at and physically threatened lobby desk personnel over an alleged error in connection with a pharmacy delivery;

On April 28, 2006, you screamed at, and obstructed my exit from the 17th floor, pushing your hand against my chest, when I advised you to remove furniture and personal belongings you had placed in the 17th floor hallway;

COPY



Joshua Hope
October 10, 2006
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On August 3, 2006, you screamed at staff members in their offices about a dispute you were having with tenants of Apartments 6A and 14A and accused staff of recording your conversation through a radio on a staff member's desk, resulting in police being called to the scene to remove you;

On August 3, 2006, staff member Geri Ekberg, upon arriving at your apartment front door, at your invitation, found the hallway window opposite your apartment had been dangerously tampered with and left fully opened at approximately five feet across. You have been advised to never tamper with the windows in the hallway. Later that day you threatened staff, banged your cane on the Occupancy door and attempted to break into the office.

On August 4, 2006, you tried to grab me, yelled at me and sobbed before me in the building lobby, administrative offices and dining room, begging to be arrested by the police;

On August 9, 2006, you complained to front desk personnel that a man was in the lobby to murder you and insisted that the police be called although you were advised that the man in question was landlord's security guard;

On August 9, 2006, at 9:05 p.m. you approached residents Mr. And Mrs. Yi of 9 L as they entered the building, you screamed at them while raising your aluminum cane in a threatening manner that required the security guard to step between you and the Mr. and Mrs. Yi;

On August 10, 2006, you stood screaming in the building lobby and dining room, accusing me of lying to you and disrupting residents at lunch;

On August 25, 2006, resident Ann Ng of Apt. 11 K and Mei Chen of Apt. 6A complained that you had harassed them by ringing their door bells, knocking on their doors at different times of the day and night.

On August 31, 2006, I received a complaint letter from resident Ann Ng, of apartment 11K, complaining about your harassment of her.

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Joshua Hope
October 10, 2006
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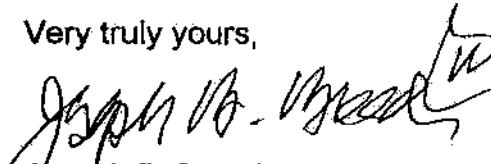
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On September 29, 2006, you verbally assaulted staff member Paul Chin in the building lobby and knocked loudly on closed staff office doors while continuing to yell. You also berated and screamed at staff member Josephine Chung in the building lobby.

You have repeatedly ignored staff requests to stop moving your personal furniture and possessions into the hallway in front of your apartment door, where you sit, dine and read the newspaper. Members of the St. Margaret's House have repeatedly requested that you stop this practice.

The objectionable conduct described in this letter must cease immediately. If you continue to harass and threaten St. Margaret's House residents, guests and staff, we will be required to serve you with a tenancy termination notice and you will be subject to eviction.

Very truly yours,



Joseph B. Breed IV
Executive Director

cc: Eileen O'Toole, Esq.

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